IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ Petition No. 115 (S/S) 2007

Jagdish Chandra Pathak S/o Sri Fakir Dutt Pathak,
Principal, Adarsh Higher Secondary School,
Sanjay Nagar, Bindukhatta,
District Nainital. .....Petitioner.

Versus

1. District Education Officer, Nainital
2. Joint Director Education, Kumaon Mandal, Nainital,
3. Addl. District Education Officer (Basic), Nainital,
4. Committee of Management, Adarsh Higher Secondary School, Sanjay Nagar, Bindukhatta, District Nainital,
5. Enquiry Committee consisting of Sri Madan Singh Bisht, Sri Aan Singh Dhami & Sri Bhawan Singh Dashauni,

.....Respondents.

Sri Sudhir Singh, learned counsel for the petitioner,
Sri Subhash Upadhyay, learned Standing Counsel for State/respondent nos 1 to3,

Hon'ble M.M. Ghildiyal, J.

Heard Sri Sudhir Singh, learned counsel for the petitioner and Sri Subhash Upadhyay, learned Standing Counsel for the State/respondent nos. 1 to 3.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

(i) To issue a writ, order or direction in the nature of certiorari quashing the impugned inquiry report dated 19.1.2.2006 given by respondent no. 5 (annexure no. 13),

(ii) To issue any suitable writ, order or direction in the nature of mandamus commanding the respondents

to direct the respondent no. 4 to send back the inquiry report to the enquiry committee for submitting a fresh report after taking into consideration the reply given by the petitioner to the charge sheet,

(iii) To issue any suitable writ, order or direction of any nature which this Hon'ble Court may deem fit and proper in the present circumstances of the case,

(iv) To award the cost of the writ petition in favour of the petitioner.

The Inquiry Committee on 19.12.2006 submitted a report in respect of Departmental proceedings initiated against the petitioner for certain charges leveled against him. The petitioner has prayed for quashing for this inquiry report. He has further prayed that the Disciplinary Authority be directed to send back the enquiry report to the Inquiry Committee for submitting a fresh report after taking into consideration the reply given by the petitioner against the charge sheet.

The petitioner who was working on the post of Officiating Principal of Adarsh Higher Secondary School, Sanjay Nagar, Bindukhatta, district Nainital was suspended vide order dated 30.10.2006 for certain charges. Against the suspension order, the petitioner preferred writ petition bearing on 15 (ss)2007 before this Court. This Court on 07th February 2007 stayed the suspension order passed against the petitioner. Learned Standing Counsel has submitted that this Court has passed order in writ petition no. 15 of 2007 lateron to the effect that in regard to the inquiry, if any initiated against the petitioner, the Disciplinary Authority is permitted to pass final order and till

the final order is passed, suspension of the petitioner shall remain stayed.

In the present writ petition the stand of the petitioner is that he was not provided proper opportunity of hearing by the Inquiry Committee and the Inquiry Committee has submitted its report in utter violation of the principles of natural justice. After submission of the inquiry report before the Disciplinary Authority, the Disciplinary Authority has issued show cause notice to the petitioner and in reply to that show cause notice, he has already raised his grievances for not complying the principles of natural justice by the Inquiry Committee before submitting the report. The Disciplinary authority has yet not passed any order, at this stage the writ petition is pre-mature.

The petitioner has already submitted objections before the Disciplinary Authority vide his representation darted 08.01.2007 and it is expected that the Disciplinary Authority before passing final order, shall take into consideration the objections filed by the petitioner against the inquiry report.

With these directions, the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

February 22, 2007:
NCM: